MCI

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July 8, 1999
Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
TWA 325
445 12 St., S.W.
Washington, D.C. 20554

RE: Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996

Dear Ms. Salas:

Enclosed herewith for filing are the original and four (4) copies of MCI WorldCom, Inc.'s (MCI WorldCom) Opposition to the Petition of the Colorado Payphone Association for Partial Reconsideration.

MCI WorldCom was unable to file its opposition electronically since the Commission's Electronic Comment Filing System was inoperative all yesterday afternoon and evening.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI WorldCom Opposition furnished for such purpose and remit same to the bearer.

Sincerely,

Lawrence Fenster

Lawrence Fenster

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

JUL 8 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Implementation of the	)	
Pay Telephone Reclassification	)	CC Docket No. 96-128
and Compensation Provisions of the	)	
Telecommunications Act of 1996	)	

OPPOSITION OF MCI WORLDCOM, INC.

TO THE PETITION OF
THE COLORADO PAYPHONE ASSOCIATION
FOR PARTIAL RECONSIDERATION

Introduction

On April 21, 1999 the Colorado Payphone Association (CPA) filed a petition for Partial Reconsideration of the Commission's Reconsideration of the Second Report and Order on Pay Telephone Compensation (Second Order on Recon).[1] CPA asks the Commission to reconsider its decisions to: 1) use the "11A Model" pay telephone to estimate the cost of a typical coinless call; 2) use 11.25% as the cost of capital to estimate the cost of a typical coinless call; 3) exclude

[1]Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Third Report and Order and Order on Reconsideration of the Second Report and Order, (Second Order on Recon), CC Docket No. 96-128, released February 4, 1999.

certain non-coin maintenance costs to estimate the cost of a typical coinless call; 4) not require interexchange carriers (IXCs) to implement targeted blocking; and 5) require payphone providers to refund a portion of the dial-around revenue for the period from October 7, 1997 to the effective date of the Third Report and Order. MCI WorldCom, Inc. (MCI WorldCom) urges the Commission to reject CPA's Petition for the reasons argued below.

CPA Fails to Show the 11A Does Not Represent the Installed Base of Coinless Phones

CPA argues that the Commission's should not use the cost of the 11A Model to estimate the investment cost of a coinless call. CPA argues that the Commission did not fully consider arguments that the Commission should instead use the cost of a smart, top of the line.[2] However, the Commission did consider, and rejected, this argument, stating that the 11A was more representative of the installed base of coinless payphones than other coinless phones.[3] In its Second Order on Recon, the Commission rejects setting a separate price for calls made from each payphone, and settles on an average cost method or rate setting.[4] Thus, it is appropriate to use a payphone that resembles the installed base of pay telephones. CPA fails to provide evidence that the 11A is not typical of the installed base of payphones. Consequently, reconsideration of this point is not warranted.

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[2]CPA Petition for Reconsideration (CPA Petition) at 7.

[3]Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Second Report and Order (Second R&O), CC Docket No. 96-128, released October 9, 1999.

[4]See e.g., Second Order on Recon. at paras. 12, 15, 78.

A "Low-Risk" Rate-of-Return is Appropriate

CPA argues that the 11.25% rate of return applied to payphone capital costs is too low, since this rate of return is appropriate for a regulated utility "...where economic risks [are] minimal due to the presence of credible regulatory guarantees of a reasonable opportunity to recover the costs of invested capital, including a fair return."[5] CPA contends that since the payphone market is "vigorously competitive," a much higher rate of return reflecting higher risk competitive firms face, should have been used.[6]

However, in its Second Order on Recon, the Commission has taken steps to reduce, and probably eliminate, the economic risks of payphone providers. The Commission has, in effect, guaranteed recovery of coinless costs. First, the Commission set the default coinless rate equal to the fully distributed cost of the marginal payphone. This action alone removes economic risk from all payphones except those with calling volumes less than the marginal phone. Second, the Commission assigned dial-around calls a proportionate share of joint and common costs, even though a rate set according to the marginal cost of a coinless call would have permitted more than full recovery. The Commission notes that in spite of the absence, until recently, of per call compensation for dial-around calls, the industry has found it profitable to install coinless payphones, which now account for as much as 6 percent of industry payphones.[7] Setting the default compensation rate at the marginal cost of under \$.01 per call would therefore have

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[5] CPA Petition at 14.

[6] Motion of Colorado Payphone Association for Leave to Supplement Petition for Partial Reconsideration, Affidavit of Haring and Rohlfs, at 2, fn. 3.

[7] *Id.*, at para. 158.

provided additional revenues and therefore spurred additional payphone installations. The gap between a compensatory marginal rate of $0.01 and the default rate of $0.24 is so large as to *de facto* guarantee full recovery of coinless calls. In the extemely unlikely event that the default rate based on an 11.25% rate of return is inadequate for individual payphone providers, the provider is free, as the Commission notes, to adjust its rates for non-compensable calls.[8] Consequently, the Commission is justified in using a low-risk rate of return.

The Commission's Interpretation of Peoples' Data is Reasonable

CPA argues that the Commission incorrectly interpreted data supplied by Peoples Telephone Company (Peoples) concerning the share of service visits attributable to coin-related recovery mechanisms. The Commission attributed to coin-related recovery mechanisms, the maintenance costs associated 50,000 service visits involving both repairs and coin collection to coin-related recovery mechanisms. The result was to assign 38% of maintenance costs to coin-related recovery mechanisms. This attribution was not an incorrect interpretation of data supplied by Peoples, since the Commission adopted Peoples own attribution of those 50,000 visits.[9] CPA could have argued that Peoples mis-characterized its own data, but chose not to make this argument.

Even if Peoples had chosen to agree with CPA, the Commission made a reasonable interpretation of Peoples' data. If the service component of Peoples' business were based solely on minimizing the number of times it visits each phone in order to collect coin revenues, it might

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[8]Id., at para. 78.

[9]Comments of Peoples Telephone Company, Inc., Remand Issues Involved with the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, at 12.

be reasonable to suppose that the 50,000 service visits were motivated solely for maintenance purposes, and the coin collection function was purely incidental. However, payphone providers also have incentives to maximize the rate of coin collection and the number of visits, in order to minimize loss from theft and maximize cash flow. On this motivation, it would be reasonable to attribute the 50,000 visits to the function of coin collection, and consider the repairs function to be purely incidental.

Date-certain Selective Call Blocking is Not Justified

CPA requests the Commission to order IXCs to implement the technology needed to permit selective call blocking as soon as possible, arguing that IXCs have no incentive to develop this capability since the default compensation rate is more than a dime below the market rate for local coin calls.[10] This argument is without merit, and fails to provide a rationale for a date-certain implementation of selective call blocking capability. CPA's argument rests on the notion, now disavowed and rejected by the Commission, that the market rate for coin calls is identical to the market rate for coinless calls that would be negotiated if selective call blocking were available. If the Commission has disavowed the link between the coin and coinless rate, there is no basis for using the coin rate to measure IXCs incentive to implement selective call blocking.

PSP Refunds for Overcharges are Reasonable

Finally, CPA requests the Commission reconsider its decision requiring payphone service providers (PSPs) to refund a portion of the dial-around revenue for the period from October 7, 1997, to the effective date of the Third Report and Order. CPA contends the Commission failed to balance the equities involved regarding these revenues. In essence, CPA argues that delays in

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[10] *Id.*, at 19.

establishing per call compensation rates for dial-around calls balances out the overcharges to IXCs.[11] However, the Commission did balance the equities involved. The Commission could have required PSPs to immediately refund overpayments made by IXCs. However, the Commission delayed the refund requirement in order to minimize the impact on PSPs, and because IXCs have already collected these overpayments from their customers.[12] The Commission also correctly decided against requiring IXCs to refund these overpayments to their 800 subscriber customers. IXCs have been harmed by having collected overpayments on behalf of PSPs. Rate increases suppress calling volume which, in this demand-elastic industry, causes a net revenue loss to IXCs even if they surcharge the higher rate to their customers.

Conclusion

For the above-mentioned reasons, MCI WorldCom urges the Commission to reject CPA's Petition for Partial Reconsideration.

Respectfully submitted,

Lawrence Fenster

Lawrence Fenster
Senior Economist

July 7, 1999

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[11] *Id.*, at 20.

[12] Second Order on Recon. at para. 198.

STATEMENT OF VERIFICATION

I have read the foregoing and, to the best of my knowledge, information and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on July 7, 1999.

Lawrence Fenster

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CERTIFICATE OF SERVICE

I, Barbara Nowlin, do hereby certify that copies of the foregoing Opposition of MCI WorldCom, Inc., were sent on this 7th day of July, 1999, via first-class mail, postage pre-paid, to the following:

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